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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

March 3, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We write to request information and express our concerns regarding efforts to study the potential impacts of hydraulic fracturing and oversee the disposal of associated wastes in light of additional disclosures made this week in The New York Times.¹

As you know, on Sunday The New York Times reported that millions of gallons of drilling wastewater, which often has radioactive radium contaminants in it at levels that far exceed the safe drinking water standards, have been hauled to treatment plants and dumped into surface waters without first removing the radium. On Tuesday, The New York Times² also indicated that residual wastewater salt and sludge, which can contain more concentrated levels of radium and other materials, can be spread as a method to de-ice the roadways in the winter and for dust suppression in the summer, after which it can also migrate into sources of drinking water supplies. Today, The New York Times³ reported that EPA recently decided not to model and closely assess the threat of radioactive drilling wastewater being discharged into rivers as part of its broader, Congressionally-mandated study on any connection between hydraulic fracturing and the safety of our drinking water supply. This decision, if true and in light of the disclosures made by The New York Times, is unwise, and we urge you to immediately reverse it.

We also request your assistance in responding to the following questions and requests no later than close of business on Friday, March 25, 2011:

¹ Regulation Lax as Gas Wells' Tainted Water Hits River By Ian Urbina, Published: February 26, 2011

see: <http://www.nytimes.com/2011/02/27/us/27gas.html?hp>

² <http://www.nytimes.com/2011/03/02/us/02gas.html?hp>

³ http://www.nytimes.com/2011/03/04/us/04gas.html?_r=1&hp=&adxnnl=1&adxnnlx=1299168232-Z56cjevJ0D6Vhvbwrk8ZM7Q

1. Today's The New York Times article reports that as part of its Congressionally-mandated study of hydraulic fracturing, EPA has decided not to study
 - a) Modeling of wastewater from hydraulic fracturing that contains radioactive radium that is passed through sewage plants before it is discharged into waterways;
 - b) Toxic air emissions released during the drilling process;
 - c) The potential that toxic or radioactive substances that are found in wastewater from hydraulic fracturing, the sludge from which can be spread on crops as fertilizer, can enter the food web through absorption into crops.
 - d) The potential that exposures to the radioactive radium contained in drilling waste could harm workers who handle it.

For each of the above potential topics of study, please indicate i) whether it is true that EPA decided not to pursue information related to the topic, ii) if so, on what basis, iii) whether, in light of the public health concerns raised in The New York Times articles, you intend to reverse any such decisions and iv) if not, why not.

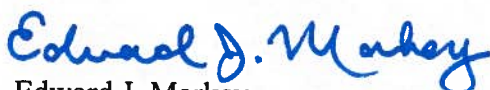
2. Today's The New York Times article states that a draft version of the EPA's 2004 study on hydraulic fracturing cited a case of possible contamination of a drinking water aquifer by fracturing fluids, and said that there could be dangerous levels of contamination contained in the fluids. These references were reportedly removed from the final report.
 - a) Please provide a copy of each draft of this 2004 report.
 - b) Please indicate which EPA (or other) officials were responsible for the decision to delete this information from the final report.
 - c) Please additionally provide a copy of all documents in EPA's possession (including reports, emails, correspondence, memos, phone or meeting minutes or other materials) that relate to any allegation or substantiation of cases in which hydraulic fracturing (including the fluids use to conduct it) has led to the contamination of sources of drinking water or drinking water itself.
- 3) Today's The New York Times quotes an internal EPA memo that states that "[wastewater] Treatment plants are not allowed under federal law to process mystery liquids, regardless of what the state tells them," reportedly in reference to a Pennsylvania regulator's decision to allow sewage treatment plants to process drilling wastes even without knowing what substances they contain. Is this true? Please provide legal justification for your response, and, if it is the Agency's view that this statement is true, please describe the steps you are taking to ensure that State regulators promulgate regulations that comply with federal law going forward.
- 4) Today's The New York Times also quotes an internal EPA document that states "The bottom line is that under the Clean Water Act, dilution is not the solution to pollution," reportedly in reference to a Pennsylvania decision to allow sewage plants to process drilling waste even though they do not remove radioactive radium from these materials before releasing them into waterways. According to the article, an EPA memo also states, "Sewage treatment plants are legally obligated to treat not dilute the waste." "These plants are breaking the law." "Everyone is looking the other way." Is it true that sewage treatment plants are prohibited from diluting this waste in lieu of treating it to remove the radioactive radium? Please

provide legal justification for your response, and, if it is the Agency's view that this statement is true, please describe the steps you are taking to ensure that State regulators promulgate regulations that comply with federal law going forward.

- 5) According to documents released by The New York Times, as sewage plants process hydraulic fracturing wastewater they are left with a concentrated sludge that has substantially higher radioactivity, salts and other substances than the wastewater itself. Sludge can also collect inside the drilling pipes at well sites, in waste pits and in holding tanks. Radioactivity also concentrates in 'pipe scale'. This scale is formed when barium and strontium, also found in drilling waste, collect on the pipes, and attract radioactive radium. The levels of radioactivity in pipe scale and treatment filters may pose a substantial risk for workers and others who handle these materials, in fact one EPA official believes the radioactivity is high enough to require special disposal.⁴
- a) What steps do you plan to take to ensure that workers who may come into contact with these materials are monitored to ensure they are not exposed to high levels of radioactive radium?
 - b) Does EPA believe that sludge that may contain drilling waste that includes radioactive radium or other toxic materials can be used as agricultural fertilizer or in road de-icing or dust reduction processes? Why or why not, and if not, what steps do you plan to take to ensure that State regulators are aware of any concerns EPA might have regarding this practice.

Thank you for your assistance and cooperation in responding to this request. Should you have any questions, please have your staff contact Dr. Michal Freedhoff of the House Natural Resources Committee staff, Dr. Avenel Joseph of my staff at 202-225-2836 or Andrea Burgess of Rep. Holt's staff at 202-225-5801.

Sincerely,



Edward J. Markey
Ranking Member
Natural Resources Committee



Rush D. Holt
Ranking Member
Subcommittee on Energy and
Mineral Resources

cc: The Honorable Doc Hastings
Chairman
Natural Resources Committee

cc: The Honorable Doug Lamborn
Chairman
Subcommittee on Energy and
Mineral Resources

⁴ <http://www.nytimes.com/interactive/2011/02/27/us/natural-gas-documents-1.html#document/p389>